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0610 Legislative Emergency Preparedness, Response, and Recovery Committee



**Report to the
Colorado General Assembly**

**Legislative Emergency
Preparedness,
Response, and
Recovery Committee**

Prepared by

*The Colorado Legislative Council
Research Publication No. 610
December 2011*

Legislative Emergency Preparedness, Response, and Recovery Committee

Members of the Committee

Representative Mark Waller, Chair
Representative Joe Miklosi, Vice-Chair

Senator Betty Boyd
Ms. Marilyn Eddins
Mr. Todd Herreid
Ms. Cindi Markwell
Mr. John Ziegler

Senator Nancy Spence
Ms. Debbie Haskins
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December 2011

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December 2011

To Members of the Sixty-eighth General Assembly:

Submitted herewith is the final report of the Legislative Emergency Preparedness, Response, and Recovery Committee. This committee was created pursuant to Senate Bill 07-229 and is required to develop a plan for the response by, and continuation of operations of, the General Assembly and the legislative service agencies in the event of an emergency epidemic. The committee is also required to meet at least annually to review and amend the plan as necessary and provide any updated plan to the Speaker of the House of Representatives, the President of the Senate, the Executive Director of the Department of Public Health and Environment, the Governor's Disaster Emergency Council, the Director of the Division of Emergency Management in the Department of Local Affairs, and the Governor's Expert Emergency Epidemic Response Committee.

Sincerely,

/s/ Representative Mark Waller
 Chairman

Table of Contents

	Page
Committee Charge	1
Summary of Continuity of State Government and Legislative Branch	2
Committee Activities	3
2008 Activities	3
2009 Activities	3
Summary of 2010 Legislation Concerning Emergency Planning	4
2010 Activities	6
2011 Activities	6
Resource Materials	7
Appendices	9
Appendix A — Legislative Continuity of Operations Plan (COOP)	9
Appendix B — Executive Summary of the Continuity of Operations Plan for Legislative Agencies	13
Appendix C — LEPRRC Decision Tree	15

This report is also available on line at:

<http://www.colorado.gov/lcs/LEPRRC>

Committee Charge

The Legislative Emergency Epidemic Response Committee (LEERC) was established by Senate Bill 07-229 in Sections 2-3-1501 through 2-3-1503, C.R.S. These provisions require the committee to "develop a plan for the response by, and the continuation of operations of, the General Assembly and the legislative branch in the event of an epidemic emergency." The legislative declaration expressed the urgency of this situation by stating that "in the event of an emergency epidemic in the state, the General Assembly must be prepared to respond to the emergency and have a plan for ensuring the continuation of its operations in order to assist in the protection of the health, safety, and welfare of the public."

The bill created an 11-member legislative committee comprised of 2 members of the Senate, 2 members of the House, the Secretary of the Senate, the Chief Clerk of the House, and 5 members representing the legislative staff agencies. The committee consists of the following members:

Representative Mark Waller, chair
Representative Joe Miklosi, vice chair
Senator Betty Boyd
Senator Nancy Spence
Ms. Marilyn Eddins, Chief Clerk of the House
Ms. Debbie Haskins, Assistant Director, Office of Legislative Legal Services
Mr. Todd Herreid, Chief Fiscal Officer, Legislative Council Staff
Mr. Manish Jani, Senior IT Manager, Legislative Council Staff
Ms. Cindi Markwell, Secretary of the Senate
Ms. Dianne Ray, State Auditor, Office of the State Auditor
Mr. John Ziegler, Director, Joint Budget Committee

House Bill 10-1080 amended Section 2-3-1503 C.R.S., expanded the scope of the committee to include disaster preparation, authorized the committee to recommend legislation, and changed the title of the committee from the Legislative Emergency Epidemic Response Committee (LEERC) to the Legislative Emergency Preparedness, Response, and Recovery Committee (LEPRRC).

In addition to its statutory charge, the committee is authorized to convene, in the event of an emergency epidemic or disaster that the Governor declares to be a disaster emergency, as rapidly and as often as necessary to advise the Speaker, the President, and the legislative service agencies regarding reasonable and appropriate measures to be taken by the General Assembly and the legislative service agencies to respond to the emergency epidemic or disaster and protect public health. The legislative committee is also required to communicate, cooperate, and seek advice from the Governor's Disaster Emergency Council, the Division of Emergency Management in the Department of Local Affairs, the Department of Public Health and Environment, and the Governor's Expert Emergency Epidemic Response Committee.

Summary of Continuity of State Government and the Legislative Branch

Continuity of Operations Plans (COOP). COOPs are created to identify an organization's response to a wide range of potential emergencies. These plans address issues of communication, staffing, facilities, and decision making in order for the organization to meet critical responsibilities. Plans also provide steps for an immediate reaction to an emergency and for a long-term response when circumstances prohibit resuming normal business functions.

The Governor's Office of Homeland Security coordinates the development and execution of COOPs for state departments. The office is also available to assist and coordinate COOP activities with the legislative and judicial branches. After developing the COOP, departments are encouraged to exercise the plan and identify personnel within groups that are responsible for maintaining the COOP on a regular basis. All 19 state departments have developed a COOP, and a majority of these have exercised the plan in training.

The COOP for the legislative branch was developed by the legislative staff directors. This plan can be found in Appendix A of this report. Additionally, each legislative service agency maintains its own COOP, which can be obtained from each individual agency. Appendix B outlines the contents of each agency's plan.

In 2008, the LEERC developed an emergency plan that involves activation of the legislative COOP and the process outlined in Joint Rule 44, which was adopted by the General Assembly during the 2009 legislative session. Activation of the legislative COOP and the use of Joint Rule 44 depends on the timing of the emergency — whether during session or not — and the nature of the emergency. The LEPRRC Decision Tree, found in Appendix C, maps the legislature's responses to an emergency during and out of session.



Committee Activities

2008 Activities

The LEERC met four times during the 2008 legislative session. The focus of the committee's activity fell into four general categories:

- fact finding and collection of information about the state's existing structure of emergency epidemic response planning;
- examination of other states' activities with regard to emergency response planning, specifically in the area of pandemic events;
- a review of Colorado's constitutional, statutory, and requirements by rule governing legislative operations; and
- a proposed legislative continuity of operations plan, including interactions with executive branch departments and agencies.

The committee sought input from a number of individuals and groups and made a total of four legislative recommendations to the General Assembly. Two of those recommendations were introduced as resolutions, which were both adopted. House Resolution 09-1005, in part, addressed the line of succession for the Chief Clerk of the House of Representatives in the event of the death, resignation, disability, or absence of the clerk from the state. Senate Joint Resolution 09-004 created a new Joint Rule 44 concerning the rules of procedure during a declared disaster emergency caused by a public health emergency. Two other committee recommendations were not introduced as legislation. The first concerned the authority of the Senate President to address matters not covered by Senate rules. The other, similar to House Resolution 09-1005, concerned the line of succession for the Secretary of the Senate.

2009 Activities

In 2009, the LEERC met five times to discuss pending matters that were not resolved in 2008 and to gather information about the possibility of an imminent influenza pandemic and the state's preparedness for such an event.

Continuity of government. The committee reviewed the 2008 final report of the committee to determine whether additions or revisions were required. The discussions specifically focused on continuity of government, relocation of the seat of government, filling legislative vacancies, and the legislative recommendations made by the committee in 2008. The committee received a thorough status report on state government continuity planning from General Mason Whitney of the Governor's Office of Homeland Security. The committee also discussed the status of individual continuity of operations plans for each legislative agency.

As a result of committee deliberations, the committee recommended a Senate Resolution concerning the replacement of the Secretary of the Senate in the event of an emergency. The resolution also addressed the authority of the Senate President. The committee also recommended a House Resolution, which amends House Rule 43 (n) to eliminate the line of succession for the Chief Clerk of the House. Lastly, the committee recommended a House Joint Resolution, which made a technical change to Joint Rule 44 to resolve an inconsistency in the language of the rule.

Legislative vacancies. The committee heard a presentation about the process of filling legislative vacancies in other states. Colorado law covers legislative vacancies that occur due to death or resignation, but it does not address extended absences that can occur because of illness or statewide disaster. Several other states require legislators to designate a list of successors. Others allow a majority of the legislative body to vote to fill a vacancy. The committee discussed various scenarios when legislators may need to be replaced, the current law in Colorado, and the need for a more comprehensive statute to address legislative vacancies in the case of emergencies. Although the committee discussed potential statutory or rule changes, no action was taken by the committee on this topic.

State emergency management. To help educate members of the committee on emergency management in Colorado, the committee toured the Department of Public Health and Environment's (CDPHE) Emergency Operations Center and the Multi-agency Coordination Center run by the Division of Emergency Management in the Department of Local Affairs. At each stop, the committee heard presentations about emergency management operations and procedures across the state.

H1N1 influenza virus. A panel of state medical experts briefed the committee regarding the H1N1 influenza virus, also known as swine flu. The briefing covered outbreaks of H1N1 in Colorado and state and local response to such outbreaks. The briefing also discussed strategies for stopping the spread of the virus and the statewide planning process for the upcoming flu season. Finally, the briefing addressed testing for the virus, vaccination efforts, and reporting of flu cases to the CDPHE.

Additional committee discussion. The committee discussed the subject of temporarily relocating the seat of government and the authority to relocate the General Assembly during a declared emergency. The committee considered, but declined to make recommendations.

Summary of 2010 Legislation Concerning Emergency Planning

In the 2010 legislative session, committee members individually sponsored several measures that made changes to legislative rules, state statutes, and the constitution to address emergency planning for the General Assembly. In addition, the House adopted rule changes that were recommended by the LEERC.

House Bill 10-1080 — Concerning the Expansion of Duties of the Legislative Emergency Epidemic Response Committee. House Bill 10-1080 changed the title of the committee from the Legislative Emergency Epidemic Response Committee (LEERC) to the Legislative Emergency Preparedness, Response, and Recovery Committee (LEPRRC). The bill also amended Section 2-3-1503, C.R.S., to expand the scope of the committee to include disaster preparation and authorized the committee to recommend legislation.



House Concurrent Resolution 10-1004 — Submitting an Amendment to the Colorado Constitution Concerning a Process for Temporarily Moving the Seat of Government in a Disaster Emergency. House Concurrent Resolution 10-1004 submitted a ballot measure (Amendment Q) to amend the state constitution at the 2010 general election. Amendment Q, which was passed by voters, created a process for temporarily moving the seat of government if a disaster emergency affects the ability of state government to operate in Denver.

This measure also defined the seat of government as the location of the legislative, executive, and judicial branches of the state of Colorado, and authorized the Governor to designate a temporary meeting location for the state legislature after declaring a disaster emergency, and after consulting with the Chief Justice of the Colorado Supreme Court, the President of the Senate, and the Speaker of the House of Representatives. A declared disaster emergency would require the legislature to meet at that location and decide whether to pass a bill designating a temporary location for the seat of government outside of Denver, and indicate when the temporary location of the seat of government would expire.

Senate Resolution 10-005 — Concerning the Line of Succession for the Secretary of the Senate and the Authority of the President of the Senate to Address Matters Not Covered by the Senate Rules. Senate Resolution 10-005 amended Senate Rule 40 to provide the President the authority over any matter not covered specifically by the Senate rules, subject to the right of appeal by any member of the Senate. Additionally, this resolution amended Senate Rule 13 to provide a line of succession for the Secretary of the Senate in the event of the death, resignation, disability, or absence from the state. The resolution also provided for the assistant to the secretary to serve as acting secretary until a new secretary can be appointed or until the current secretary is able to return. If the assistant to the secretary is unable to serve, the President has the authority to appoint a new acting secretary, according to this rule change.

House Resolution 10-1004 — Concerning the Line of Succession for the Chief Clerk of the House of Representatives. House Resolution 10-1004 amended House Rule 43 (n). House Resolution 09-1005 had designated the line of succession for the Chief Clerk of the House of Representatives in the event of the chief clerk's death, resignation, disability, or absence from the state. House Resolution 10-1004 amended House Rule 43 (n) to eliminate the line of succession for the chief clerk. Instead, the Speaker has the authority to appoint a new acting chief clerk in the event that the assistant clerk is unable to serve as an acting chief clerk.

House Joint Resolution 10-1017 — Concerning Technical Changes to Joint Rule 44 (c)(2). Joint Resolution 10-1017 amended Joint Rule 44 (c)(2), concerning rules of procedure during a declared disaster emergency. The resolution clarified the limit on the number of bills House or Senate members may request or introduce during a declared disaster emergency.

2010 Activities

The LEERC only met once in May 2010 due to the adoption of Senate Bill 10-213, which suspended the activities of most interim committees, including LEERC, during the 2010 interim. The committee discussed the interim schedule in response to Senate Bill 10-213. The committee also reviewed legislative recommendations from the committee that were adopted during the 2010 legislative session. Specifically, the committee discussed House Concurrent Resolution 10-1004, and reviewed changes to the committee under House Bill 10-1080.

2011 Activities

The LEPRRC met on May 6, 2011, to elect a new committee chair and vice-chair for the 2011 interim. The committee reviewed the committee's charge, response plan, and annual reporting requirements. The committee also reviewed House Bill 10-1080 and House Concurrent Resolution 10-1004, and discussed possible meetings during the 2011 interim. The committee did not meet again during the 2011 interim, but did satisfy the statutory requirement for the committee to submit the emergency response plan to the Speaker of the House of Representatives, the President of the Senate, the Governor, the Executive Director of the Department of Public Health and Environment, the Governor's Disaster Emergency Council, the Director of the Division of Emergency Management in the Department of Local Affairs, and the Governor's Expert Emergency Epidemic Response Committee by July 1, 2011.



Resource Materials

Summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-4900). Meeting summaries are also available on our website at:

<http://www.colorado.gov/lcs/LEPRRC>

Meeting Date and Topics Discussed

May 6, 2011

- ◆ Election of committee chair and vice-chair
- ◆ Review of House Bill 10-1080 and House Concurrent Resolution 10-1004
- ◆ Discussion of the 2011 interim schedule

Legislative Continuity of Operations Plan (COOP)

This is the continuity of operations plan for the General Assembly and the Legislative Department. The response plan differs in some attributes based on whether the legislature is in or out of session at the time that an emergency disaster declaration is issued. Other variables, such as length and severity of the emergency or pandemic, impact the manner in which the plan is executed. The COOP is based on the following assumptions:

- 1) The General Assembly would continue to meet at the State Capitol and would not relocate to a pre-designated alternative site, unless the Capitol was declared uninhabitable by the CDPHE. The first choice for an alternative site would be in the Denver metro region.
- 2) A virtual electronic session would be too costly and has too many logistical difficulties for consideration at this time. A "last resort" option might include suspending restrictions on legislators participating in committee meetings via telephone or another electronic connection.
- 3) The length of the legislative session may need to be adjusted in the event of a pandemic occurrence.
- 4) Because of the expected absenteeism and the risk of further spreading the disease, one of the first questions to be resolved by the Executive Committee and the Governor is whether there is truly a reason for the General Assembly to meet and when it is safe to assemble in public during a legislative session.

COOP Planning

The Governor and the legislative leadership must decide if the General Assembly needs to meet during a disaster emergency declaration. If the General Assembly does need to meet, the Governor and the legislative leadership will have to determine how the timing of the legislative session can occur with the least risk to members, staff, and the general public. The two scenarios detailed below are contingent upon whether the General Assembly is in or out of session at the time of a disaster emergency declaration.

Scenario I: General Assembly in Session at the Time of a Disaster Emergency Declaration

If the General Assembly is in session at the time of notification of the Governor's declaration of a disaster emergency, the following protocols would ensue.

- 1) The Executive Committee of the Legislative Council shall meet and set forth the following:
 - A. The list of items or topics on which members of the General Assembly may submit requests for bills to address the particular disaster emergency and the prioritization of any pending legislation that the Executive Committee deems necessary to enact prior to adjournment or recess of the regular session.

- B. The Executive Committee shall determine what budgetary issues still need to be addressed and identify the critical responsibilities of the General Assembly in light of the declared emergency. Among the legislative items to be considered are:
- the revenue resolution specified in Section 24-75-201.3, C.R.S.;
 - the annual general appropriation act;
 - the annual legislative appropriation bill;
 - any supplemental appropriation bills;
 - the school finance bill; and
 - any other issues that, in the estimation of the Executive Committee are critical to address prior to recess or adjournment.
- C. The Executive Committee shall determine a limit on the number of bill requests that the members of the House or Senate may request and introduce.
- D. In addition, the Executive Committee shall adopt a deadline schedule including the dates when the General Assembly shall convene or resume meeting.
- E. If necessary, the President and the Speaker or their designees shall activate the critical information call tree of the General Assembly (if the legislature is in recess or adjourned for less than three days).
- 2) If it is determined that there is an increased health risk to the members of the General Assembly or to the public of meeting in the Capitol Building, the Executive Committee will make other arrangements to have the General Assembly meet on a temporary emergency basis at an alternate location within or outside the city and county of Denver.
 - 3) Upon convening of the General Assembly, the House and Senate shall adopt by a simple majority vote the rules of the House and Senate and the joint rules as temporary rules.
 - 4) New, smaller committees of reference shall be appointed by resolution to serve during the period of the disaster emergency in both the House and the Senate. The committees shall be in existence only during the period to the declared disaster emergency.
 - 5) During the declared disaster emergency, rules prohibiting electronic participation in committees of reference may be suspended. Any member who participates in a committee of reference by telephone or other electronic connection shall be required to provide a password verification prior to being allowed to participate in the deliberations of the committee.
 - 6) Nothing in the emergency rule shall change the constitutional requirements for the number of legislators required to pass a bill by majority vote.
 - 7) The number of working days shall be counted as one hundred twenty separate calendar days as opposed to one hundred twenty consecutive days during a declared disaster emergency.
 - 8) The Secretary of the Senate and the Chief Clerk of the House shall have

additional powers and authority in a declared disaster emergency to implement new or streamlined methods of operation and may suspend requirements set forth in the rules of the Senate or House and the joint rules.

Scenario II: The General Assembly is not in Session at the Time of a Disaster Emergency Declaration

The primary difference between Scenario I and Scenario II is the use of the critical information call tree of the legislature to notify members of changes to the legislative schedule and the plan for modification of the legislative rules. Scenario II contemplates enough advance notice of a pandemic event to provide a planned response in conjunction with the Governor's Office and Department of Public Health and Environment.

COOP Implementation

The implementation of the legislative Continuity of Operation Plan is dependent upon a high degree of cooperation between the executive and legislative branches of government and interagency cooperation among the staff agencies serving the General Assembly. In order to implement the COOP, each legislative agency would streamline methods of operation to reduce staffing in each agency to the minimum number of employees needed to conduct critical and essential business. Generally, staff agencies would enact their COOP as follows:

- ***Chief Clerk of the House and Secretary of the Senate:*** House and Senate staffing would be reduced to a minimum number of employees needed to complete the responsibilities of the Chief Clerk of the House and the Secretary of the Senate. Front desk staff would be reduced to the Chief Clerk and Assistant Clerk in the House and the Secretary of the Senate and Assistant Secretary in the Senate, as well as one sergeant-at-arms and one amendment clerk in each house. Most document production would be in electronic format, including the calendars and journals. The enrolling rooms in each House would be reduced to a minimum number, and the bill information center and the legislative print shop would be closed.
- ***Legislative Council and the Office of Legislative Legal Services:*** These agencies would reduce the number of committee staff, fiscal analysts, attorneys, and support personnel to staff the reduced number of committees and to draft the reduced number of bills. Legislative financial transactions would be processed by a reduced staff complement in the Legislative Council accounting section.
- ***The Joint Budget Committee staff, the Office of the State Auditor, and Legislative Information Services.*** These agencies would make similar assessments to determine the minimum number of staff needed to conduct essential business.

It should be noted that each individual agency has a continuity of operations plan that will provide staffing guidance in the event of a declared disaster emergency. In addition, practical guidance by the Department of Public Health and Environment would be employed in areas such as use of face masks and hand washing stations and methods of isolating members and staff to the degree possible. The key determinant in implementing the legislative continuity of operations plan would remain the Executive Committee's decision as to whether to call a legislative session, when to call a legislative session, what business to conduct, and how to assure that a majority of members are able to participate effectively.

Appendix B

Executive Summary: Continuity of Operations Plan (COOP) For Legislative Agencies

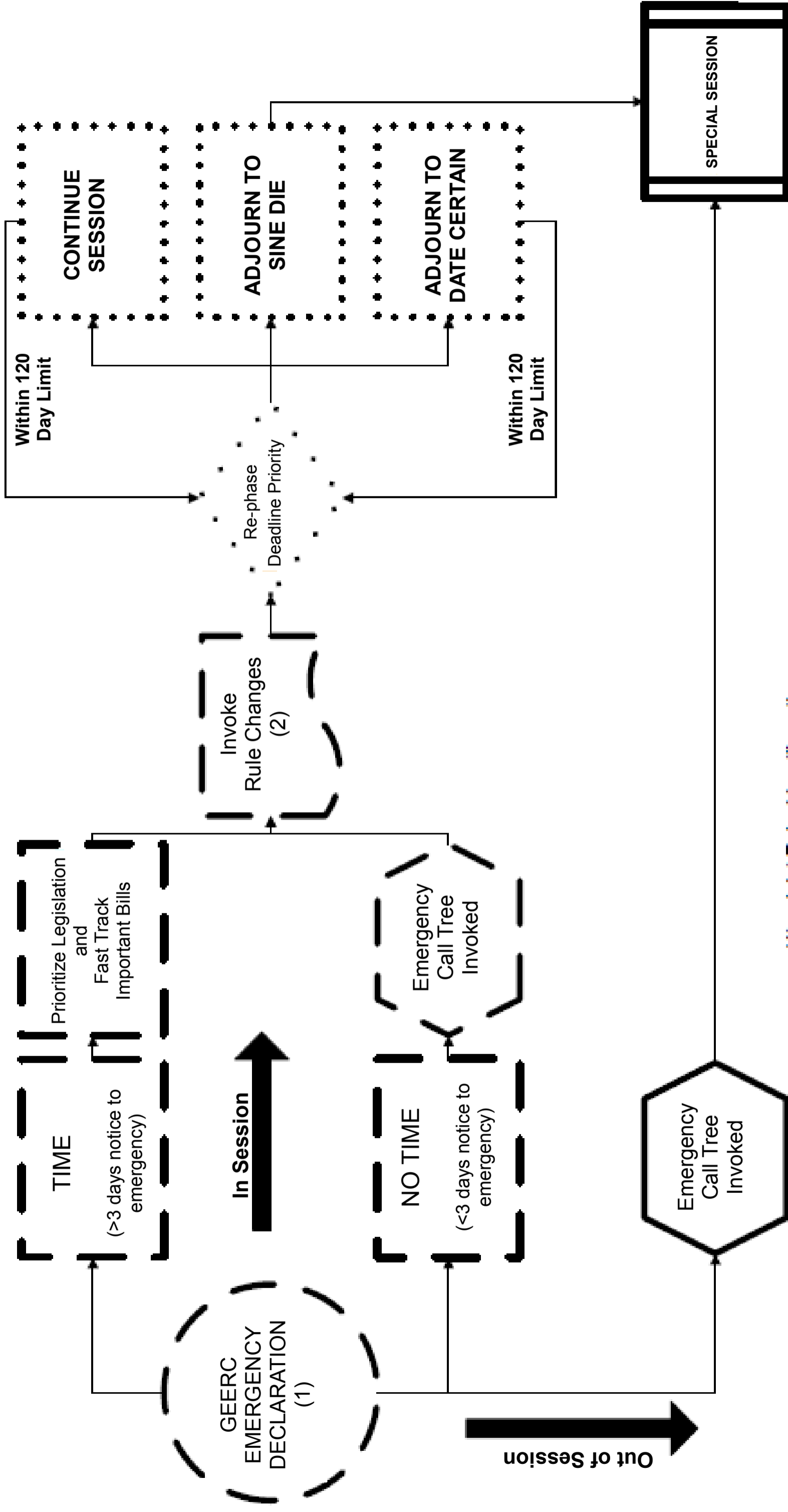
The Continuity of Operations Plan addresses the logical flow of events to respond to major disruptions in essential functions, mission critical services, and technology infrastructure. Specifically, each legislative agency (Legislative Council Staff, Office of Legislative Legal Services, Joint Budget Committee Staff, Office of the State Auditor, Legislative Information Services, the House, and the Senate) has a plan to address the events to:

- Continue or resume time-sensitive operations of the essential functions identified by the agency, including the identification of minimum staffing requirements needed to perform those essential functions.
- Activate the resumption and support of the essential functions, including the documentation of the agency's chain of command structure and the identification of the decision makers and the positions that will perform the work needed to resume the necessary work operations.
- Identify the responsibilities of the key staff members assigned to perform the essential functions and the steps necessary to progress towards resumption of the normal business operations of the agency.
- Describe how the agency will communicate and coordinate with the its staff members through the use of agency-specific emergency contact lists and telephone call trees. In addition, the members of the Legislative Management Team will utilize their established procedure for communicating with each other in order to share information between the legislative service agencies and the House and the Senate.
- Achieve each of the above objectives in a timely, efficient, and cost-effective manner.
- Return to a permanent operating environment.

Adopted by the Legislative Management Team on June 4, 2009

LEPRRC DECISION TREE

Revised 06/30/2011



Appendix C

(1)a. Joint Rule 44 outlines the process

(1)b. Review of Governor's emergency executive order powers has already occurred.

(2)a. Rule Changes drafted and vetted in advance

= In Session

= Out of Session